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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522-0640-02]

RIN 0648-XB044

Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species by Amendment 80 Vessels in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by Amendment 80 vessels in the Gulf of Alaska (GOA). This action is necessary because the first seasonal apportionment of the sideboard limit for 2012 Pacific halibut prohibited species catch (PSC) specified for the shallow-water species fishery by Amendment 80 vessels in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 24, 2012, through 1200 hrs, A.l.t., April 1, 2012.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing

fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The first seasonal allowance of the 2012 Pacific halibut PSC limit specified for the shallow-water species fishery by Amendment 80 vessels in the GOA is 10 metric tons as established by the final 2011 and 2012 harvest specifications for groundfish of the GOA (76 FR 11111, March 1, 2011) for the period 1200 hrs, A.l.t., January 20, 2012, through 1200 hrs, A.l.t., April 1, 2012.

In accordance with § 679.20(d)(1)(vi)(C)(2), the Administrator, Alaska Region, NMFS, has determined that the first seasonal apportionment of the 2012 Pacific halibut PSC limit specified for the shallow-water species fishery by Amendment 80 vessels in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the shallow-water species fishery by Amendment 80 vessels subject to sideboard limits in the GOA. The species and species groups that comprise the shallow-water species fishery are pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates, and "other species."

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the

closure of the shallow-water species fishery by Amendment 80 vessels subject to sideboard limits using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 23, 2012.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: February 24, 2012

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Steven Thur,  
Acting Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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